

O R D E R

It is ORDERED that the following special requirements shall prevail for Pretrials before Judge W. B. Hand's Court:

1. Counsel shall confer and shall prepare a single proposed Pretrial Order in the form attached, which must be in the Court's hands at least one full week before the pretrial hearing. A fine of \$20.00 per day will attach to each counsel for failure so to do.

2. Counsel shall consider and stipulate as to the following:

- A. Jurisdiction
- B. Propriety of parties, correctness of identity of legal entities, necessity for appointment of guardian ad litem, guardian, administrator, etc., and validity of appointment if already made, correctness of designation of party as partnership, corporation or individual d/b/a trade name.
- C. If the above be not agreed to, counsel shall certify the question to the Court for resolution at the conference.

3. Settlement. Prior to the Conference counsel will discuss settlement potential with the Court.

4. The proposed Pretrial Order shall contain:

- A. A comprehensive written statement of uncontested facts to be read to the jury,
- B. A written statement of contested issues that will explain to

the Court and/or jury the parties' disputes, and

1. Whenever an alleged breach of contractual obligation is in issue, a statement of the act or omissions relied upon by the party or parties asserting such breach.
2. Whenever the meaning as interpretation of a contract or other writing is in issue, each party shall separately state all facts and circumstances relied upon which serve to aid in the interpretation.
3. Whenever duress, fraud or mistake is an issue, the facts and circumstances relied upon by the parties as constituting the claimed duress or fraud or mistake (see Federal Rule of Civil Procedure 9(b)) shall be specified with particularity.
4. Whenever a conspiracy is charged, the party contending same shall set forth the facts and circumstances relied upon as constituting the conspiracy, listing the names of all conspirators making up the conspiracy, together with a narrative of the testimony of such witnesses in regard to the facts of the conspiracy.

C. The Triable issue or issues.

D. An estimate of the number of trial days required.

E. A statement indicating whether the case is a jury or non-jury case. If a jury case, whether the jury trial is applicable to all aspects of the case or only to certain issues, which shall be specified.

In jury cases, counsel shall file with the Court, not later than the beginning of trial, copies of all proposed jury instructions and shall furnish opposing counsel a copy of same. In addition to the proposed charges, the parties shall prepare and file a **joint** jury charge that sets forth the law that governs the case in a form that satisfies the parties and that the Court may read to the jury.

F. A list and description of any law or motion matters pending or contemplated.

- G. When a deposition is to be offered into evidence, and a party objects, a statement of the portions objected to, and the grounds therefor.
- H. Counsel shall list the names and addresses of all witnesses who shall or may be called and, as to experts, a narrative statement of his or her qualifications in sufficient form to be read to the jury by the party offering such witnesses. Any objections to the experts shall be separately set forth and the issue shall be decided at the Conference.
- I. Whenever damages are claimed and are ascertainable, the parties shall agree as to the amount of the ascertainable damages and shall so state them. No further testimony will be required to substantiate the amount thereof. The listing of such damages shall not constitute an agreement as to the recoverability of same unless so stated.
- J. Each party shall list all exhibits which are to be admitted. All exhibits to which there are objection shall be so designated. All exhibits to which there are objections, shall be noted and by whom the objection is made, setting forth the nature of the objection, and the authority supporting same. Failure to comply shall constitute a waiver of any such objection. Markers obtained from the Clerk shall be attached to all exhibits.
- K. Except for good cause shown, the Court will not permit the introduction of any exhibits unless they have been listed in the Pretrial Order, with the exception of exhibits to be used solely for the purpose of impeachment.

5. CAVEAT: Should a party or his counsel fail to appear at the Pretrial Conference and such failure is not otherwise satisfactorily explained to the Court, the cause shall: (a) stand dismissed for failure to prosecute, if such failure occurs on the part of the plaintiff; or (b) default judgment shall be entered if such failure occurs on the part of the defendant.

Failure to strictly comply with this Order in the form and under the terms contained herein, unless previously excused, shall result in the offending party being found in civil contempt, and such civil contempt shall continue from day to day until compliance with the Order. Failure to comply within a period of five (5) days thereafter, and explanation satisfactory to the Court not having been given and accepted, shall result in the cause being dismissed or default judgment being entered, whichever is appropriate.

6. The Pretrial Order when entered may be amended at any time on motion for good cause to avoid manifest injustice, and when entered shall constitute the final statement of the issues involved, govern the conduct of the trial, and shall constitute the basis for any relief afforded by the Court.

s/W. B. HAND

SENIOR UNITED STATES DISTRICT JUDGE
W. B. HAND

FOR THE PURPOSES OF YOUR PREPARATION OF
SUGGESTED PRETRIAL ORDERS, IT IS RECOMMENDED
THAT YOU FOLLOW THE FOLLOWING FORMAT:

IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF ALABAMA

STYLE OF CASE

PRETRIAL ORDER

There is no contest as to the jurisdiction of this Court or as
to the correctness of the named defendant(s) or the named
plaintiff(s).

I.

AGREED FACTS

(See Paragraph 4.B. of the Pretrial Order)

- 1.
- 2.
- 3.

II.

DISPUTED FACTS

(See Paragraph 4A of Pretrial Order)

- 1.
- 2.
- 3.

IIA.

In contract fraud or conspiracy cases set forth the requirements of Paragraphs 4B(1) (2) (3), and/or (4).

III.

TRIABLE ISSUES

1. (Not to be a restatement of the disputed facts but a catalogue of the legal issues such as negligence, contributory negligence, assumption or risk, etc.)
- 2.
- 3.

IV.

TRIAL TIME

It is estimated that this case will take _____ days to try.

V.

TYPE OF TRIAL

JURY NON-JURY

VI.

MOTIONS

State any outstanding motions, etc. as per Paragraph F. of the Pretrial Order.

VII.

DEPOSITIONS

List those portions of depositions to be used at trial. State

any objections. (See Paragraph G of the Pretrial Order).

VIII.

WITNESSES

1. The plaintiff expects to call the following witnesses:

A.

B.

C.

Of the named witnesses, the following will be called as experts:

A. (listing qualifications)

B. (listing qualifications)

Defendant contests the qualifications of

_____. (State reasons)

2. The defendant will or may call the following witnesses:

A.

B.

C.

Of the above-named witnesses, the following will be called as experts:

A. (listing qualifications)

B. (listing qualifications)

The plaintiff contests the qualifications of _____

_____. (State reasons)

IX.

(See Paragraph G of Pretrial Order)

X.

EXHIBITS

Attorneys are to list their exhibits numerically on the attached list with a brief description of each exhibit. Please mark your exhibits to correspond with the exhibit list.

XI.

Voir dire questions to be asked of the jury for:

The Plaintiff:

The Defendant: (May be attached on separate paper)

XII.

Attach list of names of attorneys in any firm or copy of the letterhead.

TRIAL DATE

This case is set for trial on _____.

ORDERED this _____ day of _____, 20____.

SENIOR UNITED STATES DISTRICT JUDGE

APPROVED:

Attorney for Plaintiff

Attorney for Defendant

